

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

AMIR HAKIM MCCAIN : CIVIL ACTION
A/K/A JOHN MCCAIN :

v. :

VERITEXT NATIONAL COURT :
REPORTING COMPANY, et al. : NO. 14-0882

M E M O R A N D U M

ROBRENO, J.

FEBRUARY 26, 2014

Plaintiff, a prisoner, is seeking to bring a civil action without prepayment of fees. He is alleging that he is being denied access to the courts because faulty audiotape equipment was used at a deposition that was held at SCI Graterford on February 10, 2012. In his prayer for relief, plaintiff is requesting money damages.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Plaintiff has, prior to the instant action, filed four civil actions in this Court and the Third Circuit Court of Appeals

which were dismissed as frivolous.¹

Plaintiff alleges that he is in imminent danger of serious physical injury because a woman hired another inmate to stab him at SCI Fayette in January of 2013. He is also alleging that he was present when a correctional officer at SCI Fayette hired an inmate to stab another inmate. Finally, he is alleging that another inmate attempted to stab him at SCI Fayette on February 2, 2014, to prevent him from testifying against correctional officers at SCI Fayette. However, plaintiff is currently incarcerated at SCI Forest. Furthermore, these claims of imminent danger are not related to the claims in plaintiff's complaint. See Pettus v. Morgenthau, 554 F.3d 293, 297 (2d Cir. 2009) ("[T]here must be a nexus between the imminent danger a three-strikes prisoner alleges to obtain IFP status and the legal claims asserted in his complaint."). Therefore, he has failed to establish that he was in imminent danger of serious physical injury at the time that this complaint was filed. Accordingly, plaintiff's motion to proceed in forma pauperis will be denied.

An appropriate order follows.

¹ Plaintiff's appeal of Civil Action No. 08-1613 was dismissed as frivolous by the Third Circuit Court of Appeals on June 10, 2009. Civil Action Nos. 09-0785 and 09-2385 were dismissed as frivolous on April 27, 2009 and July 1, 2009, respectively, and Civil Action No. 09-2385 was dismissed as frivolous on appeal by Order dated October 22, 2009.